

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Verizon)	
)	File No. EB-09-TC-228
Compliance with the Commission's)	NAL/Acct. No. 201032170003
Rules and Regulations Governing Customer)	FRN: 0016304214
Proprietary Network Information)	
)	
)	
)	

ADOPTING ORDER

Adopted: June 25, 2010

Released: June 28, 2010

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau of the Federal Communications Commission ("Bureau") and Verizon.¹ The Consent Decree terminates an investigation initiated by the Bureau regarding Verizon's compliance with section 222(c)(1) of the Communications Act of 1934, as amended ("Communications Act" or "Act"), 47 U.S.C. § 222(c)(1), and section 64.2007 of the Commission's rules, 47 C.F.R. § 64.2007.

2. The Bureau and Verizon have negotiated the terms of a Consent Decree that would resolve these matters and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation. We also conclude that, in the absence of material new information not previously disclosed to the Commission, the matters raised in the investigation do not raise any substantial and material questions of fact regarding Verizon's qualifications to be a Commission licensee.

4. Accordingly, **IT IS ORDERED**, pursuant to Section 4(i) of the Communications Act of 1934, as amended,² that the attached Consent Decree **IS ADOPTED**.

¹ Verizon means the regulated, wholly owned subsidiaries of Verizon Communications, Inc. and their successors and assigns.

²47 U.S.C. § 154(i).

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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CONSENT DECREE

I. INTRODUCTION

1. The Enforcement Bureau ("Bureau") of the Federal Communications Commission and Verizon,¹ by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation regarding Verizon's compliance with section 222(c)(1) of the Communications Act of 1934, as amended ("Communications Act" or "Act"), 47 U.S.C. § 222(c)(1), and section 64.2007 of the Commission's rules, 47 C.F.R. § 64.2007.

II. BACKGROUND

2. On January 27, 2009, pursuant to section 64.2009(f) of the Commission's rules,² Verizon filed a notice with the Commission reporting failures in its opt-out mechanism for obtaining customers' approval for use of their customer proprietary network information ("CPNI").³ The notice stated that, on January 16, 2009, Verizon discovered that the total number of opt-out customers compiled by its vendor was greater than the number in its database by approximately 3,400. This discrepancy was attributed to the absence of opt-out records in the database from three weeks in 2004 (July 6, July 13 and November 18) and four weeks in 2008 (April 22 through May 13).

¹ Verizon means the regulated, wholly owned subsidiaries of Verizon Communications, Inc. and their successors and assigns.

² 47 C.F.R. § 64.2009(f) states, "Carriers must provide written notice within five business days to the Commission of any instance where the opt-out mechanisms do not work properly, to such a degree that consumers' inability to opt-out is more than an anomaly." 47 C.F.R. §64.2009(f).

³ See Notification Under Section 64.2009(f), CC Docket No. 96-115, Letter from Donna Epps, Vice President, Federal Regulatory, Verizon, to Julie Veach, Acting Chief, Competition Policy Division, Wireline Competition Bureau, and Erica McMahon, Chief, Consumer Policy Division, Consumer & Governmental Affairs Bureau, (filed January 27, 2009) ("January 27, 2009 Opt-Out Failure Notice").

3. On March 4, 2009, the Bureau sent a Letter of Inquiry (“LOI”) to Verizon.⁴ Verizon submitted its response to the LOI on April 17, 2009.⁵

III. DEFINITIONS

4. For purposes of this Consent Decree, the following definitions shall apply:
- a. “Act” means the Communications Act of 1934, as amended.
 - b. “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - c. “Commission” or “FCC” means the Federal Communications Commission.
 - d. “Effective Date” means the date on which the Commission releases the Adopting Order.
 - e. “Investigation” means the investigation commenced by the Bureau’s March 4, 2009 Letter of Inquiry to Verizon.
 - f. “Order” or “Adopting Order” means an Order of the Bureau adopting the terms and conditions of this Consent Decree without change, addition, or modification, and formally terminating the above-captioned Investigation.
 - g. “Parties” means Verizon and the Bureau.
 - h. “Significant Account Change” means the change or creation of a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record.
 - i. “Verizon” means the regulated, wholly owned subsidiaries of Verizon Communications, Inc. and their successors and assigns.

IV. AGREEMENT

5. Verizon agrees that the Commission has jurisdiction over it and the subject matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

6. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the Investigation. In express reliance on the covenants and representations contained herein, and to avoid the potential expenditure of additional public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of this matter and in

⁴ See Letter of Inquiry from Marcy Greene, Division Deputy Chief, Telecommunications Consumers Division, Enforcement Bureau, to Kathleen Grillo, Vice President, Federal Regulatory Advocacy, Verizon (March 4, 2009) (“March 4, 2009 LOI”).

⁵ See Letter from Kathleen M. Grillo, Vice President, Federal Regulatory, Verizon, to Marcy Greene, Assistant Division Chief, Telecommunications Consumers Division, Enforcement Bureau (April 17, 2009), (“April 17, 2009 Response”).

accordance with the terms of this Consent Decree, Verizon agrees to the terms, conditions, and procedures contained herein.

7. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance by Verizon with the requirements of the Act or the Commission's rules or orders. The Parties agree that this Consent Decree is for settlement purposes only, and that by agreeing to this Consent Decree, Verizon does not admit or deny any noncompliance, violation, or liability associated with or arising from its actions or omissions involving the Act or the Commission's rules that are the subject of this Consent Decree.

8. In consideration for the termination of the Investigation in accordance with the terms of this Consent Decree, Verizon agrees to make a voluntary contribution to the United States Treasury, without further protest or recourse to a trial *de novo*, in the amount of ninety thousand dollars (\$90,000) within thirty (30) days after the Effective Date. This voluntary payment does not constitute a fine or penalty for, or admission of, the violation of any law. The payment must be made by check or similar instrument, payable to the Order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money Order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payments by wire transfer may be made to ABA Number 021030004, receiving bank Federal Reserve Bank of New York, and account number 27000001.

Compliance Plan

9. To resolve and terminate the Investigation, and to ensure compliance with the Commission's CPNI opt-out rules, Verizon agrees to implement the following Compliance Plan ("Plan"). The Plan shall be applicable to the following companies with respect to those customers that are provided opt-out notification pursuant to 47 C.F.R. §§ 64.2007 – 64.2009: Verizon Delaware LLC, Verizon Maryland Inc., Verizon Pennsylvania Inc., Verizon Virginia Inc., Verizon West Virginia Inc., Verizon Washington, DC Inc., Verizon New Jersey Inc., Verizon New England Inc., Verizon New York Inc., GTE Midwest Incorporated, Verizon South Inc., Verizon Florida LLC, GTE Southwest Incorporated (d/b/a Verizon Southwest), Contel of the South, Inc., Verizon Northwest Inc., Verizon North Inc., Verizon California Inc., Verizon Long Distance LLC, Verizon Select Services Inc., MCI Communications Services, Inc. d/b/a Verizon Business Services, MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services, MCImetro Access Transmission Services of Virginia, Inc. d/b/a Verizon Access Transmission Services of Virginia, MCImetro Access Transmission Services of Massachusetts, Inc. d/b/a Verizon Access Transmission Services of Massachusetts, MCI International Services, Inc., MCI International, Inc., Metropolitan Fiber Systems of New York, Inc., Teleconnect Long Distance Services & Systems Company, and TTI National Inc.⁶

⁶ On May 21, 2010, the Commission approved the application for assignment or transfer of control of certain assets and/or telephone exchanges from Verizon to Frontier Communications Corporation ("Frontier"). See *Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment of Transfer of Control*, FCC 10-87 (rel. May 21, 2010) ("Applications"). The Applications identify the operations subject to transfer and include the companies Contel of the South, Inc., Verizon North Inc. (other than certain of its operations, including those in Pennsylvania), Verizon Northwest Inc., Verizon West Coast Inc. and Verizon West Virginia Inc.; certain

A. Monthly Validation Tests: Verizon will perform a validation test on a monthly basis to ensure that customer opt-out records have been successfully transferred and added to its systems. To the extent a validation test uncovers any customer opt-out that was not properly added to Verizon's systems, Verizon shall take prompt action to restrict the use of that customer's CPNI for marketing service offerings that are within a category of service to which the customer does not already subscribe.

B. Regular Checks for Transaction Errors: Verizon agrees to undertake a regular (at least weekly) check for transaction errors in its Significant Account Change notifications processes and to initiate proper customer notification, in a manner set forth by 47 C.F.R. §64.2010(f), with respect to any such notifications.

C. Validation Tests Prior to Material Changes: Verizon agrees that prior to making any material changes in the systems implementing opt-out preferences or providing Significant Account Change notifications, it shall perform appropriate validation tests to verify proper performance of such systems in implementing opt-out requests and distribution of Significant Account Change notices.

D. Training: Verizon shall reinforce its existing annual CPNI training to Database Marketing employees responsible for managing the processes by which customer opt-outs are transferred and recorded and marketing lead lists are created, and to those employees responsible for managing the process by which notices of a Significant Account Change are distributed to customers. Such training will be modified to place added focus on the federal CPNI opt-out requirements, Significant Account Change notification requirements, and the terms of the Compliance Plan. The Database Marketing employees will focus on ensuring that Verizon's opt-out system and processes comply with the CPNI rules pertaining to customer opt-outs. In particular, the yearly training will emphasize the importance of identifying all the opt-out elections registered through the 1-800 opt-out mechanism and ensuring that they are properly transferred from the vendor administering that system and incorporated into Verizon's opt-out database.

E. Compliance Oversight: Verizon shall include CPNI Compliance as a specific topic in Verizon's compliance management processes. Verizon's compliance organization reviews methods and procedures, regularly assesses the adequacy of such procedures, reviews training materials, initiates quality observations and commissions internal audits. The compliance organization shall identify compliance with Significant Account Change notification requirements and with opt-out provisions.

territories within Verizon South Inc. and Verizon California Inc.; and certain long distance customer relationships of Verizon Long Distance LLC and Verizon Enterprise Solutions LLC that use central office switching provided by operations in these territories. Verizon and Frontier anticipate closing the transaction on July 1, 2010. Frontier has told the Bureau that, after a thorough review of both Verizon's and its own CPNI processes and procedures, it intends to implement within the subject telephone exchanges what it deems to be the best CPNI practices and procedures. Accordingly, the Bureau has agreed that these companies or applicable exchanges therein will be exempt from the instant compliance plan upon Frontier providing the Bureau with a copy of said practices and procedures.

10. Reporting Non-Compliance

Verizon shall report any non-compliance with the Compliance Plan described in paragraph 9 to the Enforcement Bureau within thirty (30) days after the discovery of non-compliance.

11. Compliance Review

Verizon will file a report summarizing compliance with the Compliance Plan described in paragraph 9 within thirty (30) days after the one-year anniversary of the Effective Date of this Consent Decree. Verizon will file a final report on compliance with this Plan thirty (30) days prior to the termination date of this Consent Decree. The reports shall address in detail Verizon's compliance with each separate provision of the Compliance Plan as described in paragraph 9 of this Consent Decree. Verizon must mail its reports to Kimberly A. Wild, Assistant Division Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, and must include the file number listed above. Verizon will also send an electronic copy of its reports to Kurt A. Schroeder, Acting Division Chief, at Kurt.Schroeder@fcc.gov.

12. Term of the Plan

Verizon will implement this Compliance Plan within sixty (60) days of the Effective Date of this Consent Decree. The terms of this Compliance Plan will expire two (2) years after the Effective Date of this Consent Decree or upon the termination of the opt-out requirements set forth in sections 64.2001-2009 of the Commission's rules, 47 C.F.R. §§ 64.2001-2009, whichever is earlier.

13. The Bureau agrees that, in the absence of new material evidence related to these matters, it will not use the facts developed in these matters through the Effective Date or the existence of this Consent Decree to initiate, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Verizon, including any other enforcement action, nor will the Bureau seek on its own motion any administrative or other penalties from Verizon, concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in these matters through the Effective Date or the existence of this Consent Decree to initiate, on its own motion, any proceeding, formal or informal, or take any action on its own motion against Verizon with respect to Verizon's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier. Consistent with the foregoing, nothing in this Consent Decree limits the Commission's authority to consider and adjudicate any complaint that may be filed pursuant to section 208 of the Act, 47 U.S.C. § 208, and to take any action in response to such complaint. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding.

14. Verizon's decision to enter into this Consent Decree is expressly contingent upon the Bureau's issuance of an Adopting Order. Provided the Bureau issues an Adopting Order, Verizon waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order.

15. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Verizon nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Verizon and the Commission will waive any statutory right to a trial *de novo* with respect to the issuance of the Adopting Order and shall consent to a judgment incorporating the terms of this Consent Decree.

16. In the event that this Consent Decree is rendered invalid by a court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

17. By this Consent Decree, Verizon neither waives nor alters its right to assert and seek protection from disclosure of any privileged or otherwise confidential and protected documents and information, or to seek appropriate safeguards of confidentiality for any competitively sensitive or proprietary information.

18. Verizon agrees that any violation of the Order or of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

19. The Parties agree that if any provision of this Consent Decree is inconsistent with any subsequent rule or order adopted by the Commission, that provision will be superseded by such Commission rule or order.

20. This Consent Decree may be signed in counterparts.

For: Verizon

For: Enforcement Bureau

Date John Wimsatt
Senior Vice President -
Product Marketing
Verizon Services Organization Inc.

Date P. Michele Ellison
Chief, Enforcement Bureau